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12 for the Chapter 7 Trustee Janina M. Hoskins

13 **UNITED STATES BANKRUPTCY COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**  
15 **SAN FRANCISCO DIVISION**

16 In re:

17 GROWTH CAPITAL SERVICES, INC., a  
18 Delaware corporation,  
19 Debtors.

Bankruptcy. Case No. 22-30218-HLB

Chapter 7

20 **NOTICE OF HEARING ON**  
21 **APPLICATION OF SULLIVAN**  
22 **BLACKBURN PRATT LLP FOR FINAL**  
23 **APPROVAL OF EARNED**  
24 **CONTINGENCY FEES FROM THE**  
25 **SETTLEMENT BETWEEN THE**  
26 **CHAPTER 7 TRUSTEE AND**  
27 **DEFENDANTS AND REIMBURSEMENT**  
28 **OF EXPENSES**

Date: April 4, 2024  
Time: 10:00 am

Judge: Hon. Hannah L. Blumenstiel

LOCATION: Via Tele/Videoconference,  
[www.canb.uscourts.gov/calendars](http://www.canb.uscourts.gov/calendars)

NOTICE IS HEREBY GIVEN that Sullivan Blackburn Pratt LLP ("SBP") special  
litigation counsel for Janina M. Hoskins, the duly appointed Chapter 7 Trustee ("Trustee") of the

1 estate of Growth Capital Services, Inc. (“Debtor” or “GCS”) has filed the *Application of Sullivan*  
2 *Blackburn Pratt LLP for Final Approval of Contingency Fees From the Settlement Between the*  
3 *Chapter 7 Trustee and Defendants and Reimbursement of Expenses* (“Application”). The hearing  
4 will be held on April 4, 2024 at 10:00 a.m. or as soon thereafter as the matter may be heard before  
5 Honorable Hannah L. Blumenstiel, United States Bankruptcy Judge. The hearing will be held by  
6 video by Zoom or by telephone via AT&T conference call. The Bankruptcy Court’s website  
7 provides information regarding how to arrange an appearance at a video or telephonic hearing. If  
8 you have any questions on how to participate in a video or telephonic hearing, you may contact  
9 the Court by calling 888-821-7606 or by using the Live Chat feature on the Bankruptcy Court’s  
10 website.

11 By way of the Application, SBP moves for final approval of earned contingency fees in the  
12 amount of \$136,342.80 plus reimbursement of costs in the amount of \$6,419.19 to be paid from  
13 the proceeds of the settlement between the Trustee and Defendants Michael David Whelchel  
14 (“Whelchel”) and Finalis Securities LLC (“Finalis”) arising out of the adversary proceeding,  
15 *Janina M. Hoskins, in her capacity as Chapter 7 Trustee of Growth Capital Services, Inc. v. David*  
16 *Michael Whelchel and Finalis Securities, LLC*, Adv. P. No. 22-03019 (“Adversary Proceeding”).  
17

18 Due to the Trustee’s and SBP’s efforts, the Trustee settled the Adversary Proceeding and  
19 entered into a Settlement Agreement with Whelchel and Finalis. The Settlement Agreement is  
20 attached as Exhibit A to the Declaration of Janina M. Hoskins filed in support of the *Motion to*  
21 *Approve Settlement Agreement* (“Settlement Motion”). (Dkt. No. 35). The settlement provides for  
22 payment of \$370,000 to the Trustee for the benefit of the estate (“Settlement Amount”).

23 The Court previously approved SBP’s employment pursuant to § 328(a) of the Bankruptcy  
24 Code and per the terms set forth in the SBP’s employment application and the contingency fee  
25 engagement agreement filed along with the application. (Dkt. No. 25, 30). Per the terms of the  
26 engagement agreement approved by the Court, if the Trustee is unable to timely pay all Expenses  
27 and Recovery is received pursuant to a settlement, judgment or otherwise, any time after 120 days  
28

1 of the Bankruptcy Court's order approving SBP's employment (June 3, 2023) and before the  
2 Commencement of Trial, SBP is entitled to (i) 37 ½ % of all Net Recoveries and (ii)  
3 reimbursement of all unpaid Expenses to be paid from the Recovery. SBP's percentage of Net  
4 Recoveries is only limited by the deduction of all necessary and out of pocket Expenses incurred  
5 in connection with the Contingency Litigation Claims. SBP has not been reimbursed its expenses.

6 The total amount of expenses incurred by SBP in prosecuting the Adversary Proceeding  
7 is: \$6,419.19 [filing the complaint \$350; mediation costs: \$6,000; postage costs: \$69.19]. SBP  
8 submits that all the expenses were reasonable and necessary. The Settlement Amount of \$370,000  
9 less Applicants' combined expenses of \$6,419.19 is \$363,580.81 to which the 37 ½ will apply.  
10 37 ½ of \$363,650 is \$136,342.80. ("Earned Contingency Fee"). SBP requests that the Court grant  
11 final approval of the Earned Contingency Fee of \$136,342.80 plus reimbursement of costs in the  
12 amount of \$6,419.19 to be paid from the proceeds of the settlement between the Trustee and  
13 Defendants.

14 NOTICE IS FURTHER GIVEN that the Application is supported by this Notice and the  
15 Declaration of Christopher D. Sullivan.

16 NOTICE IS FURTHER GIVEN that any opposition to the requested relief shall be filed  
17 and served on the initiating party no less than 7 days before the actual scheduled hearing date. *See*  
18 B.L.R. 9014-1(c).

19 Dated: March 11, 2024

SULLIVAN BLACKBURN PRATT LLP

21  
22 By: /s/ Christopher D. Sullivan

23 Christopher D. Sullivan

24 Attorneys for the Chapter 7 Trustee  
25 Janina M. Hoskins  
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